

### **REMARKS**

Claims 1-8 and 10 are pending in the above application.

The Office Action dated May 4, 2006, has been received and carefully reviewed. In that Office Action, claims 1, 2, 8 and 10 were rejected under 35 U.S.C. 102(e) as being anticipated by Berstis, claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Official Notice, and claims 3-6 were rejected under 35 U.S.C. 102(e) as being unpatentable over Berstis in view of Schelberg. Each of these rejections is addressed below, and reconsideration and allowance of claims 1-8 and 10 is respectfully requested in view of the following remarks.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Berstis. Claim 1 requires an electronic copyrighted work sales apparatus that includes, *inter alia*, a copyright royalty calculation unit calculating a copyright royalty based on copyright royalty information stored in a copyright royalty information storage unit. As noted in the Office Action, Berstis appears to discuss storing copyright royalty information at column 8, lines 8-26. However, it is not believed that Berstis discusses any unit for performing royalty rate calculations on this information as required by claim 1. The portion of Berstis cited in the Office Action to show a copyright royalty rate calculation unit discusses various payment options, for example, payment in advance for a given number of copies. Nothing about this section discusses a copyright royalty calculation unit, and Berstis' system appears to perform no such calculations. Berstis does not show a copyright royalty calculation unit as required by claim 1, and for at least this reason it is respectfully submitted that claim 1 is not anticipated by Berstis and is allowable over this reference.

If this rejection is maintained, it is respectfully requested that the examiner provide a more detailed explanation of how Berstis is believed to show a copyright royalty calculation unit given that the cited lines appear to discuss merely the timing of royalty payments.

Claims 2-7 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1. Claim 2 further distinguishes over Berstis by requiring a sales information recording unit recording sales status of a relevant electronic copyrighted work sales apparatus. The Office Action indicates that Berstis teaches this aspect of the invention by adjusting the

account of a content provider. While the amount of money in the account of a content provider may vary with the total number of copies of content made, this account value provides no information about sales of a relevant electronic copyrighted work sales apparatus as required by claim 2. If, for example, content was sold by 10 different apparatuses, the value of the copyright holder's account would provide no information on sales information for a relevant one of those apparatuses as required by claim 2. Claim 2 further distinguishes over Berstis for this reason.

Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Berstis. Claim 8 has been amended to more clearly recite aspects of the claimed copyright royalty data approval processing unit that are not shown in Berstis. Specifically, claim 8 requires a copyright royalty data approval processing unit causing a communication unit to transmit to an external source copyright royalty data recorded in a copyright royalty data recording unit after an approval of said copyright royalty data stored in said copyright royalty data storage unit is received. In this manner, the copyright management apparatus can better control the royalty rate and ensure that approved royalty rates are sent to external sources (in one embodiment, a copyrighted work sales apparatus). Berstis in no manner suggests receiving an approval and sending to an external source copyright royalty data when an approval is received. Claim 8 is submitted to distinguish over Berstis for at least this reason.

Claim 10 is also rejected under 35 U.S.C. 102(e) as being anticipated by Berstis. Claim 10 requires a management system that includes at least four elements: a sales apparatus, a management apparatus, a seller terminal and a copyright holder terminal. Claim 10 recites various elements that are included in each of the sales apparatus and the management apparatus and describes how the four elements interact. Such a system is not shown or suggested by Berstis.

First, the Office Action appears to identify a "storage and rendering device" as corresponding to the claimed sales apparatus, and client 40 as corresponding to the claimed sales terminal. If this is inaccurate, it is respectfully requested that clarification be provided in the next communication. Next the Office Action suggests that some "central authority" discussed at column 10, line 2, corresponds to the claimed management apparatus and that the management server is the claimed copyright holder terminal. It appears from Berstis, however, that the

“central authority” mentioned at column 10 is merely the management server discussed in column 8, lines 8-35. Therefore, no copyright holder terminal as required by claim 10 appears to be present in Berstis.

In addition, claim 10 requires a copyright royalty calculation unit. Such a unit is not present in Berstis for the reasons provided above in connection with claim 1. Claim 10 also requires a copyright royalty data approval processing unit. Such a unit is not present in Berstis for the reasons provided above in connection with claim 8. For at least these reasons, it is respectfully submitted that claim 10 is allowable over Berstis and the other references of record.

#### **REJECTIONS UNDER 35 U.S.C. 103(a)**

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Official Notice. Claim 7 depends from claim 1. It is respectfully submitted that Official Notice regarding partitions on a hard disk does not address the shortcomings of Berstis discussed above in connection with claim 1. Claim 1 is therefore submitted to be allowable for at least the same reasons as claim 1.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Schelberg. Claim 3 requires that the sales apparatus recited in claim 1 further include an identification information storage unit storing identification information of an electronic copyrighted work sales apparatus and a sales information control unit. The sales information control unit senses attachment of a sales information readout card ... and reads out sales status recorded in said sales information recording unit. In this manner, an operator of the claimed machine can retrieve, for example, sales statistics from an apparatus. An example of such a device is discussed, for example, at page 25, lines 5-16 of the specification.

Neither Berstis nor Schelberg shows or suggests a sales information control unit as claimed. The cited portion of Berstis discusses what Berstis describes as a prior art prepayment system, and Schelberg appears to discuss payment using a smart card. However, claim 3 is not directed toward a payment method. The references, taken alone or in combination, do not show or suggest a sales information control unit as claimed. Claim 3 and its dependent claims 4-6 are submitted to be distinguish over the references of record for at least this reason.

### CONCLUSION

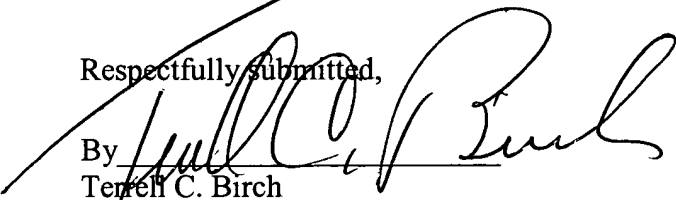
Each issue raised in the Office Action dated May 4, 2006, has been addressed, and it is believed that claims 1-8 and 10 are in condition for allowance. Wherefore, reconsideration and allowance of claims 1-8 and 10 is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: August 1, 2006

Respectfully submitted,

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